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File No. Irg. Crop Reg. II/43

Legal Department

15 BRANCH

Subject:— Rules and Notifications under the Bombay Irrigation Crop Regulation Act 1946.

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File No. Irg Crop, Reg. II/54 '45

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C O N T E N T S.

Legal Department File No. Irg.Crop.Reg.II/45.

Sr.No.	Compilation No.	Subject.	Pages.
		Rules & Notfns. under the Sind Irrigated Crop Regulation Act,1944.	
1 2	O.No. 2825 12-4-45.	Sec.3 --- Whether the canal officer or any other officer appointed by the Commissioner to prepare a scheme under sec. 3 should have certain powers.	1-3.
2	C.A.P.A.I.No. C.61/35 6/8/45.	Sec.13 - ------ Form of Notice under. -	3-10.

SNI/16.7.

Office of the R.L.A.

The R.D. in agreement with the P.W.D. considers that it is essential that the Canal Officer or any other officer appointed by the Commissioner to prepare a scheme under section 3 of the Bombay Irrigation Crop Regulation Act, 1944, should have the following powers, namely:-

(i) to summon the owners of the land included in the scheme with a view to consulting them for preparation of a faultless scheme;

(ii) to determine the alignment of new water courses or field channels etc. when water courses and field channels are considered necessary; and

(iii) to construct new water-courses , field channels etc.

2. As regards proposal (1) attention is invited to para. 3 (ii) of R.L.A.'s opinion No.5674 dated the 11th August 1944. A specific provision will be necessary on the lines of section 14 of the Land Acquisition Act, 1894, sections 16,40(2) and 75(2) of the Bombay Industrial Disputes Act, 1938, sections 7(1) and 34 of the Bombay Agricultural Debtors Relief Act, 1939 or section 12(6) of the Bombay Tenancy Act, 1939.

3. As regards proposals (2) and (3) attention is invited to the said paragraph 3 (ii) of R.L.A's opinion. It will now be for R.D. first to consider whether the provisions of the Bombay Land Improvement Schemes Act, 1942, cannot properly be resorted to for achieving the object in view. In the said para. 3 (ii) of R.L.A's opinion R.L.A. suggested recourse to the Bombay Land Improvement Schemes Act, 1942, and not to Part III of the Irrigation Act as misapprehended in para. 2 of the Superintending Engineer, N.I.C's letter at page 71.

Presumably neither R.D. nor P.W.D. has considered the existing provisions of the Land Improvement Schemes Act which provide the speedy procedure that is felt necessary in this case.

4. As regards the last sentence of para. 1 of R.D. note at page 82 the question of amendment will be duly taken up if Government decide to amend the Act. There is however some

some misapprehension even on this point as disclosed in para. 3 of the Superintending Engineer's letter at page 71. The Superintending Engineer seems to distinguish between land under command of the irrigation work and survey numbers to which water can be supplied from the irrigation work. He seems to assume that land under command would also include survey numbers to which water cannot be supplied due to the limited storage conditions. It is not clear how this can happen under the Act. Land under command as defined in section 2(2) is the land which is fixed under section 4(1)(iii) as being irrigable during the period of the scheme by means of water from the irrigation work. Evidently land under command cannot include survey numbers to which water cannot be supplied due to the limited storage conditions. If necessary the point can be further clarified be substituting "effectively irrigable" for the word "irrigable" in section 4(1)(iii).

5. If it is decided to amend the Act, the R.D. is requested to follow the procedure laid down in Instructions 25 of the Instructions issued under rule 15 of the Rules of Business and in Secretary to Governor's Circular No.12/1, dated the 10th May 1937 and Political and Services Department Circular No. 996, dated the 3rd September 1938 and Secretary to Governor's Circular No. 201(41), dated the 30th September 1941 and submit the papers to His Excellency the Governor through all the Advisers.

Sd/- P.M.M.
11/4/45.

Remembrancer of Legal Affairs.

U.O. to R.D. No.2025 dated the 12th April 1945.

Office of the R.L.A.

The R.L.A. is requested to modify the draft form of notice contained in the draft notification at pages 49-50 ante in view of the suggestions made in paras. 8 and 9 of A.E.'s note at pages 63-66 ante. Presumably, the reference is meant not to paras. 8 and 9 of A.E.'s note but to paragraphs 9 and 10 of his note. In para 10 it is stated that there are different dates (of taking water and of sowing) for different crops in different seasons. Different dates with reference to different crops will have to be appointed under section 4 (1) (v) and 4(1)(vii) respectively for the purpose before the issue of notice. A revised draft form of notice giving effect to the suggestions made by A.E. in paras. 9 and 10 of his note referred to above is sent herewith. It should be substituted for the draft form of notice at pages 49-50 ante (marked A to A).

Sd/- P.N.H.
7/6/45.

Remembrancer of Legal Affairs.

U.R. to P.W.D., No.4336, dated 7th June 1945.

SNT/16.7